

Art Unit 3308

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,16 and 23 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Politano and applicant's specification. Politano discloses the method for treating urological disorder comprising the steps as claimed. The particles as claimed do not structurally distinguish over the same as disclosed by Politano. Applicant's specification discloses that the surgical steps of treating the disorders by injections of particles into the afflicted sites are well known in the art but none recognize the use of the particular particles as disclosed.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 3-6,8-15,17,18,19,20,21 and 24 are are rejected under 35 U.S.C. § 103 as being unpatentable over Politano (PUBS; "Periurethral teflon injection for urinary incontinence") as applied in t claims 1,2,16 and 23 further in view of Wallace and Berg.

The process for treating urological and gastric disorders is generally disclosed by Politano. It is

not clear if there are cavities or pores formed within the particles. Berg, et al (285) teaches the use of porous particles for augmenting soft tissues wherein cellular ingrowth into the pores aids in the particles retention in the tissue. To use porous particles in the treatment of urinary incontinence to prevent particles migration from the implant site would have been obvious to one with ordinary skill in the art from Berg, et al.

Claims 4 and 5, see pages 182 and 420 of Politano.

Claim 6 see column 3, lines 1-10 of Wallace, et al.

Claims 8-15, are standard steps used in the treatment for urological and gastric disorders. It appears that the main inventive concept of the invention is directed to the use of the particular particles which reduces the migratory tendency of the same.

Claims 7,22 and 25 are rejected under 35 U.S.C. § 103 as being unpatentable over Politano in view of Wallace and Berg as applied to claims 1,2,16 and 23 above, and further in view of Henderson, et al.

Polyvinyl pyrrolidone is well known for its use in the surgical art as a lubricating agent and physiological carrier as taught by Henderson, et al. To replace the physiological carrier of Politano with PVP if one desires more lubricity and biocompatibility, would have been obvious to one with ordinary skill in the art from Henderson.


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The prior art statement filed on 7-9-92 has been considered in part. Applicant failed to provide the office with a separate list of information directed to patents or foreign publications. Consequentially examiner has considered only those arts listed on the Attachment A. If applicant wishes to have the other prior arts considered then a form comprable to the PTO 1449 should be submitted.

Any inquiry concerning this communication should be directed to David J. Isabella at telephone number (703) 308-0858.



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PRIMARY EXAMINER
ART UNIT 3308

DJI
September 25, 1992